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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,478	03/31/2004	Mario Stigler	0275M-911/CO	7889

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,478

Applicant(s)

STIGLER, MARIO

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 4-14 and 16-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

This is the first Office Action for the serial number 10/814,478, RETAINING CLIP WITH OFFSET LATCHING FINGERS, filed on 3/31/04.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 and 4-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 2 and 4-11 are rejected as depending on rejected claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-2, 4, 6-8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan Patent # 317,946 to Tomoyoshi in view of US Patent # 6,708,931 to Miura.

Tomoyoshi teaches a retaining clip (figure 1, page 6) having a base part (2) with receivers (7) and pair of partitions (upright part of base part (2)). The partition comprises a front side and a rear side having at least one first latching finger (8) at the front side and at least one second latching finger (8) at the rear side of the partition. The width of each latching finger is smaller than the width of the partition. The first latching finger is arranged offset relative to the second latching finger (figure 1). The partition is elbowed (a wall located underneath latching finger and adjacent to curve part of element 7) between the offset latching fingers. The partition has an opening in the form a slot (figure 2, b, page 5). The clip comprises outer walls (located on both end of clip and adjacent to element 9) having at least one latching finger (8). The outer walls are reinforced by reinforcing structures (9-10).

Tomoyoshi teaches the first latching finger is arranged laterally offset relative to the second latching finger but fails to teach the distance between the first finger and second finger is 5 to 20% of the width of the partition. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified distance between first latching finger and second latching finger to 5 to 20% of width of partition to prevent the first latching finger from interfering the second latching finger when an object is secured in the receiver.

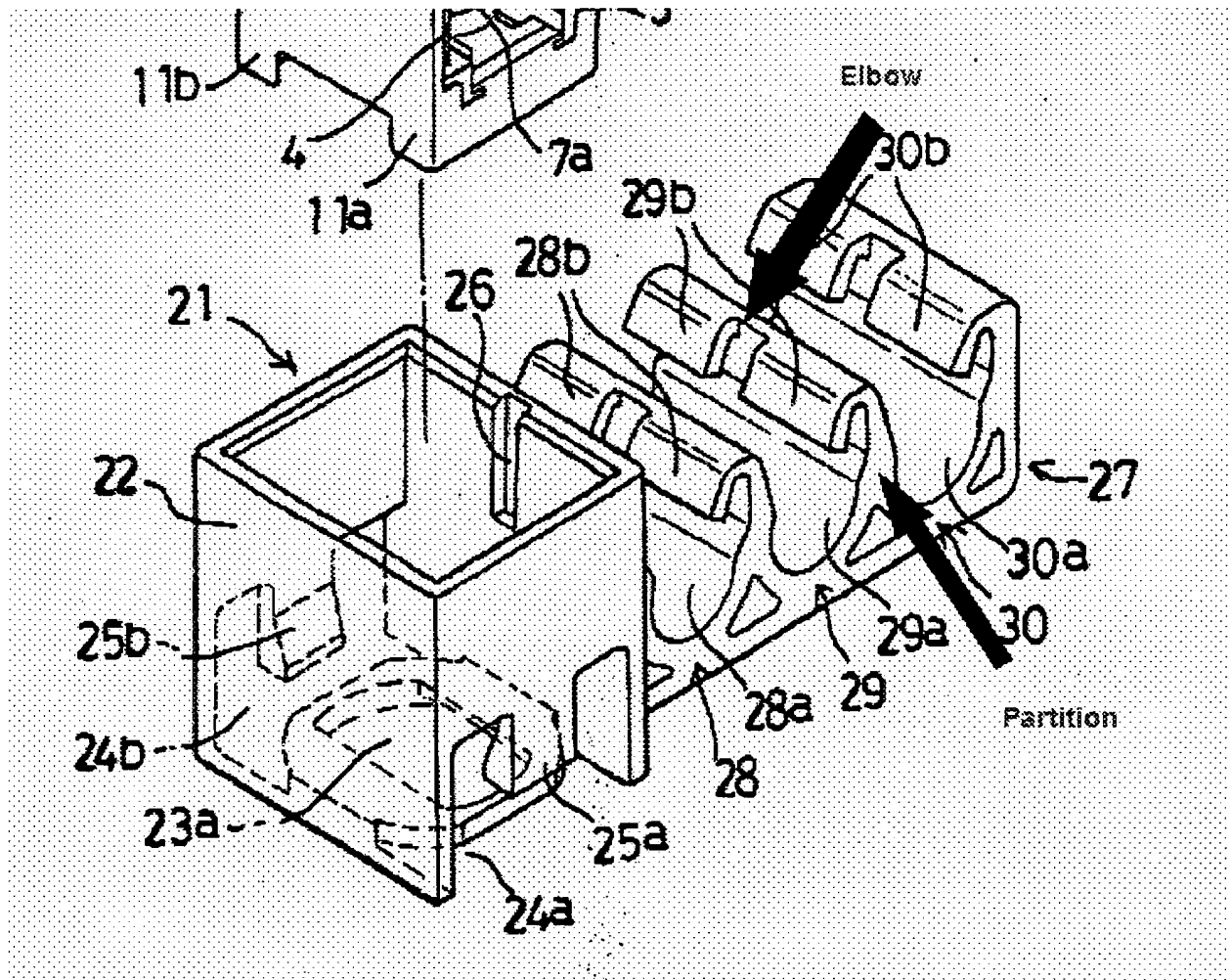
In regard to claim 6, Tomoyoshi teaches the latching finger but fails to teach the ratio of latching finger width is between 1:4 and 1:2 or 2:5. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the ratio of width for

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the latching finger to between 1:4 and 1:2 or 2:5 to prevent the first latching finger from interfering the second latching finger when an object is secured in the receiver.

Tomoyoshi teaches the partitions and latching fingers but fails to teach the partitions are elbowed between the latching fingers. Miura teaches the partition (see drawing below) is elbowed between the offset latching fingers (29b). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added elbow to Tomoyoshi's partitions and latching fingers as taught by Miura to provide support for the both fingers to remain in an upright configuration when an object is inserted in the receiver which will cause the fingers to move in different direction from each other.

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Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomoyoshi in view of Miura and in further view of US Patent # 5,947,426 to Kraus.

In regards to claim 5, Tomoyoshi teaches the partition but fails to teach both sides of the partition having two or more vertically offset latching fingers. Kraus teaches the partition having two vertically offset latching fingers (26-27). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added additional vertically offset

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latching fingers to Tomoyoshi's partition to provide additional security for retaining an object within the clip.

In regards to claim 9, Tomoyoshi teaches the retaining clip but fails to teach the retaining clip is made of elastic plastic material. Kraus teaches the retaining clip (1) manufactured by plastic material (col. 2, line 32). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Tomoyoshi material to plastic material as taught by Kraus to provide flexibility in the retaining clip for convenience in removing an object from the clip without breaking it.

Claims 12, 14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomoyoshi in view of US Patent # 6,565,049 to Hahn.

Tomoyoshi teaches a retaining clip (figure 1, page 6) having a base part (2) with receivers (7) and pair of partitions (upright part of base part (2)). The partition comprises a front side and a rear side having at least one first latching finger (8) at the front side and at least one second latching finger (8) at the rear side of the partition. The width of each latching finger is smaller than the width of the partition. The first latching finger is arranged offset relative to the second latching finger (figure 1). The partition is elbowed (a wall located underneath latching finger and adjacent to curve part of element 7) between the offset latching fingers. The partition has an opening in the form a slot (figure 2, b, page 5). The clip comprises outer walls (located on both end of clip and adjacent to element 9) having at least one latching finger (8). The outer walls having at least one latching finger (9).

Tomoyoshi teaches the first latching finger is arranged laterally offset relative to the second latching finger but fails to teach the distance between the first finger and second finger is 5 to 20% of the width of the partition. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified distance between first latching finger and second latching finger to 5 to 20% of width of partition to prevent the first latching finger from interfering the second latching finger when an object is secured in the receiver.

Tomoyoshi teaches the partition but fails to teach the both sides of the partition having two or more vertically offset latching fingers are disposed respectively. Hahn teaches the partition having two or more vertically offset latching fingers (9-10). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added additional latching fingers to Tomoyoshi's partition as taught by Hahn to provide additional support for securing an object within the base.

In regard to claim 16, Tomoyoshi teaches the latching finger but fails to teach the ratio of latching finger width is between 1:4 and 1:2 or 2:5. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the ratio of width for the latching finger to between 1:4 and 1:2 or 2:5 to prevent the first latching finger from interfering the second latching finger when an object is secured in the receiver.

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Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomoyoshi in view of Hahn and in further view of Miura.

Tomoyoshi teaches the partitions and latching fingers but fails to teach the partitions are elbowed between the latching fingers. Miura teaches the partition (see drawing above) is elbowed between the offset latching fingers (29b). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added elbow to Tomoyoshi's partitions and latching fingers as taught by Miura to provide support for the both fingers to remain in an upright configuration when an object is inserted in the receiver which will cause the fingers to move in different direction from each other.

Response to Arguments

Applicant's arguments filed 8/31/05 have been fully considered but they are not persuasive.

The applicant argues that Kraus does not teach "an elbow defined between the two latching fingers." The examiner is using new secondary reference with Miura that clearly shows "elbow defined between two latching fingers."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

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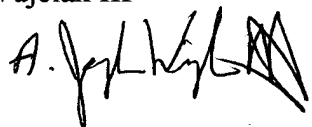
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III

Examiner

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A handwritten signature in black ink, appearing to read 'A. J. Wujciak III', with a stylized flourish at the end.

9/26/05